

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MARIA ANTONIA URIOSTEGUI, OSCAR)	
GONZALEZ , VERONICA PADILLA, and)	
ANA VILMA ARDON on behalf of themselves)	
and all other persons similarly situated, known)	
and unknown,)	
)	
Plaintiffs,)	
)	Case No. 13 C 6755
v.)	
)	Judge Charles P. Kocoras
ALTERNATIVE STAFFING, INC. d/b/a ASI,)	
EVANS FOOD GROUP, LTD, and VEE PAK,)	
INC.,)	
)	
Defendants.)	

PLAINTIFFS' MOTION FOR CLASS CERTIFICATION

Plaintiffs, on behalf of seven (7) classes of persons employed by Defendant Alternative Staffing, Inc., (hereafter "ASI") as temporary laborers and assigned to client companies including but not limited to Defendants Evans Food Group, Ltd., (hereafter "Evans") and Vee Pak, Inc., (hereafter "Vee Pak), respectfully request that this Court enter an Order entering and continuing Plaintiffs' Motion for Class Certification, thereby preserving Plaintiffs' ability to seek classwide relief for similarly situated employees, until such time as Plaintiffs have had the opportunity conduct appropriate discovery and file an Amended Motion for Class Certification. Alternatively, if Defendants stipulate that they will not seek to moot the Plaintiffs' class claims by making a Rule 68 Offer of Judgment, Plaintiffs will withdraw this motion without prejudice.

Plaintiffs were employed by Defendants ASI as laborers within the meaning of the IDLTSAs. Plaintiffs' claims arise from Defendant's alleged practices of: 1) failing to pay overtime wages to Plaintiffs and other similarly situated employees in violation of the FLSA, the IMWL

and the IDTSLA; 2) failing to compensate Plaintiffs and other similarly situated employees for all time worked at the rate agreed to by the Parties in violation of the IWPCA and IDTSLA; 3) failing to provide Plaintiffs and other similarly situated employees with Employment Notices as required by the IDTSLA; 4) failing to provide Plaintiffs and other similarly situated employees with proper Wage Payment and Notices as required by the IDTSLA; and 5) Defendants' Evans and Vee Pak's failure to maintain and remit to ASI an accurate record of "hours worked" by Plaintiffs and similarly situated temporary laborers as required by the IDTSLA.

This motion is filed at an early stage of the litigation pursuant to the guidance provided by the Seventh Circuit in *Damasco v. Clearwire Corp.*, 662 F.3d 891 (7th Cir. 2011), and to preserve Plaintiffs' ability to seek class-wide relief on behalf of other similarly situated individuals. In *Damasco*, the Seventh Circuit recognized that Plaintiffs' ability to pursue class claims could be mooted by a Rule 68 offer of Judgment and advised Plaintiffs to avoid this risk by stating as follows:

"A simple solution to the buy-off problem that Damasco identifies is available, and it does not require us to forge a new rule that runs afoul of Article III: Class-action plaintiffs can move to certify the class at the same time that they file their complaint. The pendency of that motion protects a putative class from attempts to buy off the named plaintiffs..." *Id.* at 896.

Plaintiffs respectfully request that this Court enter and continue this motion until such time as Plaintiffs have conducted appropriate discovery and filed an Amended Motion for class certification.

WHEREFORE, Plaintiffs respectfully requests that this Court enter an Order as follows:

a) Entering and continuing Plaintiffs' Motion for Class Certification until such time as Plaintiffs have had the opportunity to conduct appropriate discovery on the matter and filed an Amended Motion for Class Certification.

b) Alternatively, should Defendants stipulate that they will not seek to moot Plaintiffs' ability to seek classwide relief through a Rule 68 Offer of Judgment, Plaintiffs will withdraw this motion without prejudice.

Respectfully submitted,

Dated: September 20, 2013

s/ Alvar Ayala
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